

April 3, 2018

Kevin Avar, Chairman
State Senator
NH District 12
The Senate of the State of New Hampshire
107 North Main Street
Concord, NH 03301-4951

Re: Coakley Landfill Superfund Site, North Hampton, Greenland and Rye, Rockingham
County, NH

Dear Chairman Avar:

Thank you for your letter of March 26, 2018, inviting me to testify at the public hearing on House Bill 1766-FN concerning the Coakley Landfill Superfund Site. Although I am unable to attend, I am enclosing the U.S. Environmental Protection Agency's (USEPA) New England - Region 1's, written testimony for submission at the hearing on April 3, 2018.

As you are aware, there has been extensive community interest and involvement concerning the Coakley Landfill Site. Newly emerging contaminants 1,4-dioxane and PFAS compounds have been discovered at the Site as well as in residential water supplies in the area. EPA is working closely with New Hampshire Department of Environmental Services (NHDES) and the Coakley Landfill Group to investigate this issue and to identify all possible risks to human health.

Please let me know if you have any questions. In light of the complexities of the various provisions of the Superfund law at issue here, we are happy to have our legal staff follow-up with you or NHDES if that would be helpful.

Sincerely,

Alexandra Dapolito Dunn
Regional Administrator

U.S. EPA New England - Region 1 Statement
Regarding Proposed Legislation NH HB 1766-FN

April 3, 2018

On behalf of the U.S. Environmental Protection Agency, New England - Region 1 (EPA), I am submitting these comments on proposed legislation NH HB 1766-FN. This legislation, if passed, would require the New Hampshire Department of Environmental Services (NHDES) to compel the potentially responsible parties for the Coakley Site to implement additional remedial actions for groundwater contamination beyond the remedial action selected by EPA.

EPA and the State of New Hampshire signed two Consent Decrees with the Settling Defendants, which were entered by the New Hampshire Federal District Court in 1992 and 1999. Those Consent Decrees set forth the obligations of the parties at the Coakley site to perform cleanup work previously selected by EPA in accordance with the Superfund Law and its regulations and memorialized in a cleanup decision known as a Record of Decision [ROD]. The New Hampshire Department of Environmental Services concurred on the selected remedy, which was also subject to public comment. Consistent with the Superfund law, the Consent Decrees may be enforced by the Federal District Court in New Hampshire.

The Coakley Landfill Consent Decrees provide the Settling Defendants with an agreement not to sue from EPA and the State of New Hampshire so long as they perform the defined "Work" (i.e., generally, the cleanup activities set out in EPA's decision documents). The Consent Decrees also specifically address contamination migrating from the landfill. In addition, they have specific provisions with respect to new conditions that arise after the Consent Decrees were signed. In the Consent Decrees, EPA reserves the right to bring a new action or issue an order requiring additional work, if EPA determines that previously unknown conditions or information indicates that the remedial actions are not protective of human health or the environment.

The remedy selected for the Coakley Landfill is also subject to five-year reviews by EPA to evaluate the remedy's protectiveness, implementation and performance. EPA has already issued four five-year reviews at the Coakley site, and recently issued a five-year review addendum in September 2017.

The state can of course enact new environmental laws after a remedy has been selected, although in our experience it is uncommon for a new law to potentially impact a remedy. In this case, where legislation is not yet enacted, it is premature to assess how a future law may interact with the requirements of the Consent Decrees.

Regardless of the existing Consent Decrees, however, EPA does routinely consider significant new sampling and technical information that arises after a cleanup is ongoing. At the Coakley Site,

EPA, together with NHDES, has been reviewing all new information that has become available and will continue to do so. Additional studies of the Site are ongoing. If, based on these additional studies a change to the cleanup is needed, EPA will evaluate potential changes in accordance with the Superfund law and regulations, and propose a change to the cleanup after consideration of public comment.

Submitted by: _____